

parentis), is eighteen years old or over, and the person on whom the assault is committed is under the age of twelve years.

Evidence of threats against defendant upon plea of self-defense.

(c) In all cases of assault, assault and battery, and affrays, wherein deadly weapons are used and serious injury is inflicted, and the plea of the defendant is self-defense, evidence of former threats against the defendant by the person alleged to have been assaulted by him, if such threats shall have been communicated to the defendant before the altercation, shall be competent as bearing upon the reasonableness of the claim of apprehension by the defendant of death or serious bodily harm, and also as bearing upon the amount of force which reasonably appeared necessary to the defendant, under the circumstances, to repel his assailant."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1949.

H. B. 150

CHAPTER 299

AN ACT TO PROVIDE FOR SENTENCES TO LIFE IMPRISONMENT UPON A RECOMMENDATION OF MERCY BY THE JURY IN CAPITAL CASES.

The General Assembly of North Carolina do enact:

G. S. 14-17, amended.

SECTION 1. Section 14-17 of the General Statutes of North Carolina is hereby rewritten so as to read as follows:

Murder in the first degree defined; punishment.

"SEC. 14-17. Murder in the first and second degree defined; punishment. A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, burglary or other felony, shall be deemed to be murder in the first degree and shall be punished with death: *Provided*, if at the time of rendering its verdict in open court, the jury shall so recommend, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury. All other kinds of murder shall be deemed murder in the second degree, and shall be punished with imprisonment of not less than two nor more than thirty years in the State's prison."

Imprisonment for life, upon recommendation of jury.

Second degree murder; punishment.